THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION Nos.25825 of 2006 & 2093 of 2007

DATED: 02-08-2007

W.P.No.25825 of 2006

Adduri Ramgopal Rao.

...PETITIONER

AND

The Government of A.P.,
Rep., by its Principal Secretary,
Revenue (Excise-II)Department,
Secretariat Buildings,
Hyderabad & 3 others.

...RESPONDENTS

W.P.NO.2093 OF 2007:

G.Ram Reddy.

...PETITIONER

AND

The Government of A.P.,
Rep., by its Principal Secretary,
Revenue (Excise –II)Department,
Secretariat Buildings,
Hyderabad & 3 others.

...RESPONDENTS

COMMON ORDER:

Heard learned counsel appearing for the petitioners; learned Government Pleader for Prohibition & Excise; and the learned counsel appearing for the respondents.

2. Petitioner in W.P.No.25825 of 2006 is A.Ramgopal Rao; and the petitioner in W.P.No.2093 of 2007 is G.Ramireddy. Parties are hereinafter referred to by their names.

3. It is the case of A.Ramgopal Rao that he is the auction purchaser for the sale of Indian made foreign liquor and foreign liquor pursuant to the auction conducted for Mulugughanpoor mandal, Warangal District in respect of
A4 shop on an yearly lease amount of Rs.26,00,000/- for the excise year commencing from 01-07-2006 to 30-06-2008. It is stated that G.Ramireddy became the highest bidder in respect of Mulugughanpoor mandal on an yearly lease amount of Rs.15,00,99/-. Whileso, the said Ramireddy made an application for shifting his shop from Mulugughanpoor village and mandal within the same mandal at Ghanpoor cross roads. It is stated that

the said shop was permitted to be shifted to the place which is very near to the shop of Ramgopal, and as his sales will be affected the said Ramgopal filed objections but without considering the objections the said Ramireddy was permitted to shift his shop. Writ Petition filed by Ramgopal was admitted on 13-12-2006 and the 2nd respondent-Commissioner of Prohibition & Excise, A.P., Hyderaqbad was directed to consider the representations of the said A.Ramgopal, dated 30-11-2006 and 11-12-2006, and pass appropriate orders in accordance with law within a period of two weeks from the date of receipt of the said order.

4. It is stated that Ramireddy was permitted to shift his shop by proceedings, dated 12-12-2006, i.e., one day before passing the interim order and he has established his shop at Ghanpoor cross roads within the same mandal as per the permission granted by him in exercise of the powers under Rule 29(3) of the A.P.Excise (Lease of Right of Selling by shop and conditions of licence) Rules, 2005. Thereafter, the 2nd respondent passed an order, dated 27-01-2007, cancelling the earlier permission granted for shifting the shop of Ramireddy, and therefore Ramireddy questions the said order of the Commissioner, dated 27-01-2006, in W.P.No.2093 of 2007 and this Court while admitting the said Writ Petition on 05-02-2007 granted interim suspension of the said order.

The only question that arises for consideration is whether the Commissioner of Prohibition & Excise while passing the orders, dated 27-01-2006, gave proper opportunity to Ramireddy before cancelling

the earlier order or not.

5. A perusal of the order, dated 27-01-2006, goes to show that no notice has been issued to the said Ramireddy but in the counter filed on behalf of the Superintendent, Prohibition and Excise, Mulugughanpoor mandal it is stated that pursuant to the interim orders of this Court, dated
13-12-2006, a notice, dated 03-01-2007, was given to Ramireddy for his personal hearing on 08-01-2007.

6. Learned counsel appearing for Ramireddy submits that no notice has been issued and the said notice was not at all served and he was not given any personal opportunity for his appearance on 08-01-2007, but without giving a notice to him the objections of the said Ramgopal alone were considered and said order, dated 27-01-2007, was passed cancelling the earlier order, dated 12-12-2006, permitting him to shift the shop.

7. I have perused the counter and the relevant records. There is no record that goes to show that notice, dated
03-01-2007, was served on Ramireddy and therefore, he could not appear on 08-01-2007. As the order, dated
27-01-2007, was passed by the 2nd respondent-Commissioner of Prohibition & Excise in Cr.No.17237/2006/CPE/G3 without serving any notice and without giving any opportunity to Ramireddy, the same is set aside and the matter is remitted back to the 2nd respondent directing him to give a notice to both the petitioners fixing a particular date to submit their objections and grievances and pass appropriate orders in accordance with law, as

expeditiously as possible, within eight weeks from the date of receipt of a copy of this order.

8. Accordingly, Writ Petitions are disposed of. However, if the order goes against the interest of A.Ramgopal it is open for him to question the validity of the order. No order as to costs.

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V. ESWARAIAH, J

02nd August, 2007.
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